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August 10, 2017

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Honorable Jacqueline Scott Corley
United States Magistrate Judge
United States District Court
Northern District of California
450 Golden Gate Avenue
San Francisco, CA 94102

Re: *Waymo LLC v. Uber Technologies, Inc., et al.,* Case No. 3:17-cv-00939-WHA

Dear Judge Corley:

Uber submits this letter brief in opposition to Waymo's motion to compel Uber to produce
1) Travis Kalanick's text messages and phone and 2) documents responsive to Waymo's
Request for Production No. 256 (related to radar).

Travis Kalanick's Text Messages Have Been Produced

Waymo's motion to compel the production of Mr. Kalanick's text messages is moot. As
detailed in the letter brief filed by Mr. Kalanick today, all responsive text messages have
been produced.

Waymo's claim that Uber hid text messages is meritless. The phone at issue is
Mr. Kalanick's personal device, not one owned by Uber. On May 19, 2017, Mr. Kalanick
provided his phone to Uber's vendor, which performed a standard extraction of text
messages. (Ray Decl. ¶ 2.) Uber searched the results for all texts with Anthony
Levandowski and provided the results to Waymo for inspection on June 6, 2017. (*Id*. ¶ 3.)
When reviewing the text messages, Uber noticed that there were no sent messages. (*Id*. ¶ 4.)
Uber's counsel alerted Waymo's counsel to this issue prior to the inspection and stated that
Uber would follow up. (*Id*. ¶ 5.) Uber's counsel noted that Mr. Kalanick was then on leave
due to his mother's recent death and his father's hospitalization following a horrific boating
accident and that Uber would not be able to obtain access to Mr. Kalanick's personal phone
until his return. (*Id*. ¶ 6.) Mr. Kalanick resigned as CEO before returning from his leave of
absence. Within days of his resignation, he retained personal counsel at Orrick. Uber
requested of Mr. Kalanick's personal counsel that it be able to further investigate the phone.
(*Id*. ¶ 7.) Because the phone is a personal device with private information, Orrick handled
the forensic investigation. (*Id*.) Orrick investigated whether additional messages could be
recovered, made extensive efforts to recover additional texts and produced those additional
texts, as described in Orrick's brief and accompanying expert declaration. Waymo's
complaints are baseless, and there is nothing more to compel.

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RFP No. 256: Waymo Continues to Fish for Non-LiDAR Discovery

With two weeks to the close of fact discovery and opening expert reports, Waymo again
attempts to expand its fishing expedition to non-LiDAR technology. Waymo's RFP No. 256
seeks the production of radar sensor schematics on the basis of its Trade Secret Nos. ("TS")
108 and 109 ███
██████ (TS 108)████████████████████████████████████ (TS 109)). As
explained in detail in Uber's fully-briefed motion currently pending before Judge Alsup,
Waymo's vague and overbroad TS 108 and TS 109 are insufficient disclosures under Cal.
Civ. Proc. Code § 2019.210 and therefore cannot justify discovery into non-LiDAR
technology. (*See* Dkt. 1006-4 at 1-4; Dkt. 1015 (staying Dkt. 951).) This Court has
previously ruled that the identification of schematics on a trade secrets list, described only as
a "representation of [plaintiff's] proprietary process and efficient solution," was an
insufficient disclosure under Section 2019.210 that merited dismissal of the trade secret
claim. *JobScience, Inc. v. CVPartners, Inc.*, No. C 12-04519-WHA, 2014 WL 1724763, at
*2-3 (N.D. Cal. May 1, 2014); *see also Loop AI Labs Inc. v. Gatti*, 195 F. Supp. 3d 1107,
1115-16 (N.D. Cal. 2016) (trade secrets list identification of "[a]ll information stored in
Plaintiff's Apple MacBook Air computer" or "[a]ll information stored in Plaintiff's data
accounts" were "so vague and unspecific as to constitute no disclosure at all" under
Section 2019.210). Just as this Court dismissed the trade secret claims in *Jobscience*, the
Court should deny discovery based on TS 108 and TS 109 here.

Respectfully submitted,

[signature]

Arturo J. González
Counsel for Uber Technologies, Inc.
and Ottomotto LLC

cc: All Counsel of Record
     Special Master John Cooper